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November 23, 2004

ORIGINAL

Our File No. 21267-00100-63

VIA HAND DELIVERY

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

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NOV 23 2004

Federal Communications Commission
Office of Secretary

Re: Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Roswell, New Mexico)
MM Docket No. 04-361
RM-11074

Dear Ms. Dortch:

Transmitted herewith, on behalf of Rooney Moon Broadcasting, Inc., are an original and four copies of its Reply Comments in the above-referenced matter.

If there are any questions concerning this submission, please contact the undersigned directly.

Sincerely,


John M. Pelkey

Enclosures

JMP:yg

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Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 04-361
Table of Allotments)	RM-11074
FM Broadcast Stations)	
(Roswell, New Mexico))	

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To: Office of the Secretary

NOV 23 2004

Attention: Assistant Chief, Audio Division
Media Bureau

Federal Communications Commission
Office of Secretary

Reply Comments of Rooney Moon Broadcasting, Inc.

In a *Notice of Proposed Rulemaking* issued by the Commission on September 17, 2004, the Commission proposed to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, by allotting Channel 289C0 to Roswell, New Mexico, as that community's thirteenth local aural service. On November 8, 2004, Rooney Moon Broadcasting, Inc., ("RMB"), filed a counterproposal in which it requested that the Commission (1) allot Channel 290C1 to Portales, New Mexico; (2) concurrently allot Channel 237C0 to Roswell, New Mexico; and (3) modify the authorization for KSEL-FM, a facility of which RMB is the licensee, so as to specify operation on Channel 290C1.

Other than RMB, the only party submitting comments was Dana J. Puopolo. Mr. Puopolo is the party who originally filed the Petition for Rulemaking that led to the issuance of the *Notice of Proposed Rulemaking*. In his Comments, Mr. Puopolo supports

his original proposal and makes the requisite statement that he intends to file an application for a construction permit for a facility on Channel 289C0 if it is assigned to Roswell as he proposed.


As was shown at length in RMB's Comments and Counterproposal, the counterproposal put forth by RMB better serves the public interest than does the arrangement proposed by Mr. Puopolo. In particular, the RMB counterproposal would permit the allocation of a Class C0 to Roswell, as had been proposed by Mr. Puopolo, while at the same time permitting KSEL-FM to upgrade its status to Class C1. Allotting Channel 237C0, rather than Channel 289C0, to Roswell would provide service to 10.7% more people. In addition, allocation of Channel 290C1 to Portales and the upgrading of the KSEL-FM facilities would permit that station to serve 69,753 people, whereas, as a Class A facility, KSEL-FM can serve only 27,553. As a result, RMB's counterproposal would yield a 253% increase in the population served by KSEL-FM.

In summary, adoption of the Puopolo proposal would result in the creation of a single Class C0 station that would serve 73,588, whereas the adoption of the RMB counterproposal would result in the creation of one Class C0 facility that would serve 81,451 and one Class C1 facility that would serve an additional 42,200 people that would be deprived of service if KSEL-FM were forced to continue to operate as a Class A station. As a result, the RMB counterproposal better serves the Commission's allotment priorities than would the adoption of the proposal set forth in the *Notice of Proposed Rulemaking*.

As a result, RMB respectfully submits that its counterproposal should be adopted in lieu of the proposal set forth in the *Notice of Proposed Rulemaking* .

Respectfully submitted,

Rooney Moon Broadcasting, Inc.

By: 
John M. Pelkey
Its Attorney

Garvey, Schubert Barer
5th Floor, 1000 Potomac Street, N.W.
Washington, DC 20007
202/965-7880

Date: November 23, 2004

CERTIFICATE OF SERVICE

I, Yvette Graves, a secretary in the law firm of Garvey Schubert Barer, do hereby certify that on this 23rd day of November, 2004, I caused copies of the foregoing "Reply Comments" to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

*Victoria M. McCauley
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dana J. Puopolo
2134 Oak Street, Unit C
Santa Monica, CA 90405



Yvette Graves

*Hand-delivered